United States Department of the Interior

National Strategic Materials and Minerals Program Advisory Committee
Washington, D.C. 20240

September 20, 1984

Honorable William J. Casey
Director,
Central Intelligence Agency
Washington, D.C. 20505

11 OCT 1984

Dear Bill:

I want to thank you for briefing our Committee at the National Defense University. The Committee includes many bright, influential people, but I suspect that few of them understood fully the vital National security implications of the work they have been asked to do. Your informative and provocative presentation should dispel any complacency they may have felt.

I regret that you couldn't stay to hear [redacted] discussion of materials technology. You might be interested to know that he was so struck by some of your remarks that he referred to them several times during his presentation. That speaks well for you and for your staff.

All the best,

Bill

William C. Mott
R. Admiral, USN (Ret.)

cc: Mary Evelyn Dean

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UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SECRETARY
WASHINGTON, D. C. 20240

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Honorable William J. Casey
Director
Central Intelligence Agency
Washington, D.C. 20505

United States Department of the Interior

National Strategic Materials and Minerals Program
Advisory Committee
Washington, D.C. 20240

20 Sept. 1984

Dear Bill,

You will receive an official letter of thanks for your very informative and effectively presented briefing of our Committee. Your remarks gave our members a shot in the arm and I am grateful for your help.

[redacted] of TRW who followed you on the program listened intently to everything you said and in his presentation must have referred back to your mention of certain minerals and materials a dozen times - with high tech explanations. Because I think you and the analysts who did such good work putting together your speech would be interested - I'm having [redacted] slides and remarks sanitized and a copy sent to you for your people.

all the best

DCI EXEC REG

EXECUTIVE SECRETARIAT

ROUTING SLIP

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Remarks

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Executive Secretary

31 July 1984

Date

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DIRECTOR OF CENTRAL INTELLIGENCE

31 July 1984

MEMORANDUM FOR: Chairman, Security Committee

FROM: DCI

Attached FYI.

William J. Casey

Attachment:
Letter dated June 13, 1984
from Admiral Mott [redacted] STAT

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Approved For Release 2008/11/20 : CIA-RDP86M00886R001700380005-1

U.S. Department of the Interior
National Strategic Materials and Minerals
Program Advisory Committee
Rear Adm. William C. Mott (ret.)
Chairman

June 13th

Dear Bill.

Your guy Bob Gates did a great job briefing our Committee - Next meeting is on Sept 19th / 18th at Natl Defense Univ with Bill Baber) Please put 10-15 minutes on your Calendar if possible -

all the best. Bill

Wayne N. Marchant
Executive Director
6649 Main Interior Building
Washington, D.C. 20240
(202) 343-5791

INTELLIGENCE IN AN OPEN SOCIETY

by

W. C. Mott, RAdm. USN (Ret.)

The Air Force Academy, alone amongst the service academies, believes in the teaching of intelligence. Its Department of Political Science deserves congratulations for its leadership in conducting courses and seminars on the subject.

The National Strategy Information Center and the American Bar Association Standing Committee on Law and National Security, which I represent, both believe and believe strongly that the teaching of intelligence is vital to survival. NSIC has, for three years, conducted an intensive eight-day seminar in the teaching of intelligence and several representatives of the Air Force Academy have attended, including Lt. Colonel Haffa, the head of the Academy's Department of Political Science. Copies of five basic books on intelligence published by NISC, as well as a recent one on Disinformation, have been presented to the Academy.[1]

The American Bar Committee has sponsored not one, not two, but three seminars on the general subject of the media, the first amendment and government leaks.[2] That happens to be the subject assigned to me for discussion. It has a broad title defined by the Air Force Academy's Department of Political Science as an examination of:

> "the role of (and restraints on) intelligence in a 'democratic' state. Specifically, the ongoing concerns with the demands of openness, freedom of the press and information, and protection of civil liberties will be assessed in the context of demands for information and the responsibility for security."

In analyzing this broad subject one must first point out that the laws of "democratic" states differ with respect to monitoring and controlling intelligence as well as leakers and the press. In Great Britain, for instance, sometimes called the mother of democracies, the laws and the courts make short shrift of leakers and the press and place much greater restraints on both than, say, the laws in the United States. And the British Official Secrets Act protects the intelligence community and punishes those who violate its secrets. A copy of a recent British landmark case - Her Majesty's Secretary of State for Defence and Her Majesty's Attorney General v. Guardian Newspapers Limited -[3] has been made available to the Department for study.

The facts of the British case are quite clear, especially if poetic license allows me to work them backward.

A young lady named Sarah Tisdall mailed a secret memorandum from the Secretary of State for Defence to Prime Minister Thatcher which arrived the next day unbidden on the desk of the editor of The Guardian newspaper. The memo gave the date of arrival of American cruise missiles at RAF Greenham Common and certain measures Secretary Heseltine planned to take to counteract negative publicity from protestors and to control expected mass demonstrations. The memorandum had no identifying data except some hieroglyphics which the editor did not comprehend. The editor, after certain inquiries which satisfied him as to the authenticity of the document, decided unilaterally that publication would not harm the national interests and he published it.

Next day the Prime Minister was embarrassed by questions in the House of Commons and gave orders to Scotland Yard to find the leaker. The government's Solicitor made written demand on the editor to deliver up the document forthwith. The editor replied that he was willing to comply but insisted that the hieroglyphics first be excised. The government found the terms for return

unacceptable and brought suit to recover what it claimed was property of the Crown. The trial judge ordered return of the document intact and both parties then appealed to the Supreme Court of Judicature which heard the case the next day. (There are no delays in national security cases in Britain.)

All three judges of the Court of Appeal wrote separate opinions but all agreed by various reasonings "that it is necessary in the interests of national security that the source from which this document came should be identified." The basis for the decision was perhaps best put in the words of the Master of the Rolls who, after stating that counsel for The Guardian had misunderstood the gravamen of the Secretary of State's complaint, continued:

> Whether or not the editor acted in the public interest in publishing this document is not the issue. The Secretary of State's concern is quite different. It is that a servant of the Crown who handles classified documents has decided for himself whether classified information should be disseminated to the public. If he can do it on this occasion, he may do it on others when the safety of the state will truly be imperilled. The editor will no doubt retort that in such circumstances he would not publish, but the responsibility for deciding what should and should not be published is that of the government of the day and not that of individual civil servants or editors. Furthermore - and this is the Secretary of State's case - friendly foreign states may well be prepared to entrust the government of the day with sensitive information if its security is in the hands of ministers, but will not be prepared to do so if it is in the hands of individual civil servants or editors. (Emphasis added.)

It seemed to the Master of the Rolls that identification of the leaker at the earliest possible moment and his or her removal from a position of trust was "blindingly obvious." He opined:

> It is therefore quite unnecessary to go into the Crown's allegation that what has happened may well discourage friendly powers from entrusting ministers with sensitive information, although I would have thought that this was only slightly less obvious.

Subsequently, Sarah Tisdall was identified, discharged from her job, brought to trial under the Official Secrets Act, and given six months in jail. That is the way leakers of secret documents are treated under British law.

But British law is not American law. When Mr. Floyd Abrams, sometimes counsel for The New York Times, was asked after hearing the facts of the Tisdall case how he would advise his newspaper with respect to return of the document, he first played to the gallery attending the ABA Committee seminar on March 23, 1984, on "The Media and Government Leaks"[4] by stating:

> "Well, the first thing I would say is thank heavens we have a written Constitution with a Bill of Rights."

And then he answered the question by opining:

> "As a matter of law, I would advise my client that the government would really have no chance of getting a prior restraint against publication of this if they had known in advance [this, of course, was not an issue in the British case], that if they went to court seeking the identify of the source that no American court would say it is up to the government to decide what is published. . . . I would protect the leaker in the sense that I would not disclose the leaker. . . . one way to describe a leaker is of

a leaker. Another way is a faithless employee. . . . But another way is a source of information to the public. And from a first amendment perspective, a situation like that [Tisdall] is a very good example. I don't think anyone would argue that the press has the right to that [secret] information. Once that information comes into its hands the government [ours] doesn't have the right to go to court and keep it from being published or to punish them [the press] in effect for having published it."

What then, if any, is the responsibility under our law of the press not to publish secrets it acquires legally or illegally? Very little, if one listens to the press.

Lyle Denniston of The Baltimore Sun stated in a seminar of the Columbia School of Journalism[5] (January 5, 1983) that he would break and enter the office of the Secretary of Defense and steal a top secret document off the desk of the Secretary of Defense and then publish it without qualms. His explanation? "I have only one responsibility as a journalist and that is to get a story and print it. . . . the only thing I do in life is to sell information, hopefully for a profit."

Dan Rather, in the same seminar, expressed similar sentiments: "My job is to get the news and report it. If I determined this information is true and it's newsworthy, I'd run it. If this is or may be an illegal act, then I am prepared to take the consequences of having broken the law."

In a panel on "The Media and Government Leaks"[6] with respect to Grenada, Stephen Rosenfeld of The Washington Post said with respect to the responsibility issue: "We don't have to be responsible. That isn't what the Constitution said, that they wanted a pussycat of the press. The Constitution had an entirely different theory. . . . Is the press responsible, is it all the time

responsible, is it fully responsible? And the answer is, of course it's not."

Later in the same seminar, Ford Rowan of NBC endorsed Mr. Rosenfeld's views in these words: "I agree with the idea that the first amendment doesn't mandate a responsible press. It's nice if the press corps acts responsibly. The question, of course, is who decides. And, emphatically, it is not the government that should decide under our system."

Is it any wonder in view of these sentiments that the military, given a choice, as it was in Grenada, would opt not to take the press along?

Let me urge students at the Air Force Academy to study the documents I will provide you with respect to "Intelligence in an Open Society" and make up your own minds as to whether we have proper restraints on the press as well as on the intelligence community. Remember that national security and the national interests of ourselves and our allies are, or should be, a common cause. We cannot long survive, without rancor and distrust, if we do not guard each other's secrets as if they were our own. No document makes this more clear than the Report of the British Security Commission[7] in the case of Geoffrey Arthur Prime who leaked the secrets of Cheltenham (theirs and ours) to the Soviets for some thirteen years. Study the Report, which will be furnished, and draw your own conclusions.

The British Security Commission was appointed by Prime Minister Thatcher:

> "to investigate the circumstances in which breaches of security have or may have occurred arising out of the case of Geoffrey Arthur Prime, who was convicted on 10 November 1982 of Offenses under the Official Secrets Act 1911; and to advise in the light of that investigation whether any change in security arrangements is necessary or desirable" (emphasis added)

A few facts about the Prime case are necessary to an understanding of the Commission's task. For thirteen years, Prime, a Russian linguist, was employed in signals intelligence work at Cheltenham, the British counterpart to our National Security Agency. During all that time he spilled Cheltenham's sensitive secrets, and ours as well, to various Soviet controllers. For the Soviets the secrets passed by Prime were a gold mine of information and for Britain and the United States a disaster. In the words of the Commission: "The extent to which his disclosures damaged the national interests of the United States and this country and impaired the effectiveness of the intelligence operations of the N.S.A. and G.C.H.Q. (Government Communications Headquarters) can never be calculated with accuracy." (emphasis added)

The Commission began its work in England and soon discovered massive failures of personnel and physical premise security at Cheltenham as well as abysmal counter intelligence procedures. In fact, Prime was only caught because of peculiar sexual activities which led to the discovery of spying equipment in his house. But, we cannot expect that all Soviet moles will be sex deviants!

The tragedy is that the whole 13 year hemorrhage of secrets could have been avoided by the use of the polygraph. Prime himself in his interrogation "stated that he would not have sought employment with G.C.H.Q. in 1968 if he had known that he would be required to undergo a polygraph examination!" (emphasis added) There could be no more crashing endorsement of the use of the polygraph in screening tests for prospective employees!

But, the Security Commission was hard to convince. The civil liberties organization in Great Britain, the press and the unions had a prejudice against the polygraph which made our own counterpart organization's objections seem mild by comparison. Because American as well as British secrets had been

leaked, two members of the Commission (General Sir Hugh Beach and the Chairman, Lord Bridge of Harwich) felt duty bound to come to our country and examine the security procedures used by our C.I.A., N.S.A. and Defense Department, including the use of the polygraph. They framed their ante American visit in these words:

> "But the vivid demonstration which the Prime case affords of the great damage that can result from a single failure of personnnel security to exclude a potential traitor from access to the most secret information or to detect his treachery at an early stage underlines the necessity for the adoption of the most effective practical safeguards which human ingenuity can devise."

And so the two Commission members embarked on their mission to find out what "human ingenuity" had devised to protect American secrets. Protection at one end of the intelligence transmission belt, they realized, would be useless if there was a leak at the other end. But they departed England loaded with British prejudice against the use of the polygraph, which is regarded in the mother of democracies as an American phenomenon. In their own words in their final report to the Prime Minister and Parliament they say:

> "We recognize that in this country, where its use is virtually unknown, there is likely to be formidable opposition to its introduction. We also freely acknowledge that all members of the Commission initially regarded the utility of the polygraph as an aid to personnel security with a degree of scepticism."

Their indoctrination in the use of the polygraph by our intelligence services not only dissolved all skepticism - it made them advocates in Britain of its use. In their own words:

"The most important conclusions we have reached in this inquiry have, we readily acknowledge, resulted from the visit of members of the Commission to Washington and the direct experience gained from this visit of the personnel security, procedures adopted by the United States intelligence and security agencies. . . . Both the N.S.A. and the C.I.A. regard the polygraph as essentially an auxiliary aid to the ascertainment of the truth . . . But most impressive of all is the patently sincere conviction of the very experienced senior staff responsible for personnel security in the N.S.A. and C.I.A. that the polygraph is their most effective safeguard against hostile penetration."

On their return to England the Security Commission members recommended the use of the polygraph in personnel security matters and the training of operators in the United States. There was opposition by unions and in Parliament but the Prime Minister simply abolished the unions at Cheltenham and ordered the training of operators and pilot use of the polygraph. Unfortunately, not many people have read the Report of the British Security Commission.

In our country opposition to the use of the polygraph in government and industry still persists, especially in the medical profession. At the last annual meeting of the American Association for the Advancement of Science, a psychiatrist (Dr. David Lykken of the University of Minnesota) said (copy of news story attached) that "the practice of polygraphy in my opinion is largely a myth". That was the British opinion. It is no longer!

One final word about the use of the polygraph before we turn to another subject. The Department of Defense has just published a monograph on "The Accuracy and Utility of Polygraph Testimony".[9] It is the brain child of General Dick Stilwell, Deputy Under Secretary of Defense for Policy. It is

by far the best defense of the use of the polygraph in existence, principally because it uses the case method and test system.

The monograph was put together by a team of six managers of polygraph testing including the Chief of the U.S. Air Force Polygraph Program, James E. Hardy. The principal preparer was [redacted] of N.S.A. - a colleague of our panelist [redacted] All three services were represented on the team and it's obvious from the contents that all contributed.

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In the overview of the publication the following paragraph appears:

"The polygraph is extremely useful in intelligence and counter intelligence operations. There is positive evidence of the deterrent effect of screening examinations. Examples of espionage and attempted espionage cases detected by polygraph examinations are included in this study. Without the polygraph as an investigative tool, a number of espionage cases never would have been solved. Helmich, Kampiles, and Barnett probably would not have been successfully prosecuted without the skillful application of polygraph technique. (remember Prime!) In addition, there is definite evidence that some extremely sensitive U.S. intelligence operations would have been penetrated by hostile intelligence services if the polygraph had not been employed in screening for clearance and access. Examiners conducting screening cases have obtained confessions from applicants of their intention to commit espionage. In other cases they developed such significant admissions that penetration attempts by hostile intelligence were detected and neutralized. Screening has also kept our intelligence agencies from hiring some extremely undesirable people. Examiners in FY 82, obtained admissions from applicants of undetected crimes involving murder, attempted murder,

arson, rape and numerous other felonies."

The polygraph is also used extensively in criminal investigations in the Armed Services. Many case examples are given in the monograph. For instance, an individual was tried and sentenced to life for the murder of a fellow soldier. He asked for and was cleared by a polygraph examination. The case was reopened and the actual perpetrator apprehended. The innocent soldier was released from prison, thanks to the polygraph.

On a personal note, when I was a prosecutor, back in the fifties, referring capital cases for trial, when a defense counsel came to me and swore his client did not commit the rape or murder, his client, if he agreed, would routinely be referred to our polygraph operator (one of the best - excellence and experience is essential) with the promise that if he passed, the charges would be dropped. Someone asked once - how many agreed to take the test? The answer was "about 2%". And of those who took the test, how many passed? Answer - "about 2%". But, that opportunity for the defense always existed.

Let me turn to one final subject, "Law and the Grenada Mission".[10] The Chairman of our American Bar Association Committee on Law and National Security has just published a monograph on that subject which lays to rest, in my view, the misperceptions of our perfectly proper and legal reasons for intervention. While this subject might be considered to be exclusively in the realm of international law and interpretation of the War Powers Act it would be well to be acquainted with the reasoning behind such actions because you may be called upon one day to execute them. Ditto for such operations as the interdiction of hostile shipping in the Cuban missile crisis.

In connection with Grenada it would be well to examine the alleged

right of the press to cover such an operation. There is no such right, of course. In the case of Grenada it was left up to the military Commander and he opted not to have the press for security reasons - security of the press and the operation.

In the Falklands invasion the Task Force Commander was not given that option and was forced to take the press along. They carped about censorship, slow transmission of dispatches and restraint on their movements. All these measures were taken by the Admiral to protect his primary mission - the protection of his ships and men. What resulted was a Parliamentary Inquiry instigated by the press on return to England. It's a fair bet that given the choice Admiral Woodward would have made the same decision as our Task Force Commander in Grenada even though a great deal more lead time was involved.